

### **REMARKS**

Applicant respectfully requests reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks.

Claims 1, 3, 4, 6-8, 10-13, 15-19, and 21-39 are pending in the application, with claims 11, 17, 28, 35 and 38 being independent. Claims 2, 5, 9 and 20 were previously canceled, and claim 14 is canceled herein without prejudice to or disclaimer of the subject matter recited therein. Claims 1, 11, 17, 28, 35, and 38 are amended herein. Support for the claim amendments and additions can be found in the original disclosure. No new matter has been added.

### **§ 103 REJECTIONS**

Claims 1, 3, 4, 6-8, 11-19, 21-25 and 27-39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2004/0268265 (Berger) in view of U.S. Publication No. 2005/0027839 (Day). Applicant respectfully traverses the rejection. Nevertheless, without conceding the propriety of the rejection and in the interest of expediting allowance of the application, claims 1, 11, 17, 28, 35, and 38 are amended and are believed to be allowable.

**Independent claim 1**, as presently presented, is directed to a presence-based seamless messaging method, and recites, among other things:

- from within a computing environment for sending a message via a user interface associated with a first communications medium, detecting a

current live presence of a potential message recipient who can be reached via a second communications medium;

- running contemporaneously multiple communications programs for accessing the first and second communications media to allow instantly sending a message via one of the communications programs;
- transforming the user interface to include an option of using the second communications medium;
- activating the second communications medium in response to the detecting;
- **displaying a one-click control option for transitioning message delivery and message composition to the second communications medium when the potential recipient is present to the second communications medium;**
- **removing display of the one-click control option when the potential recipient becomes non-present to the second communication medium;**
- **transferring automatically upon actuation of the one-click control option at least part of an unsent message from a message composition environment associated with the first communications medium to a message composition environment associated with the second communications medium when the first communications medium becomes unavailable; and**
- **transferring automatically upon actuation of the one-click control option at least part of an unsent message from a message composition environment associated with the second communications medium to a message composition environment associated with the first communications medium when the second communications medium becomes unavailable.**

(Emphasis Added)

Berger is directed to a multi-mode communication apparatus and discloses a method on a data processing device for receiving incoming electronic messages. (Berger, Abstract.) However, Berger fails to disclose or suggest “displaying a one-click control option for transitioning message delivery and message composition to the second communications medium when the potential recipient is present to the second communications medium; removing display of the one-click control option when the potential recipient becomes non-present to the second

communication medium; transferring automatically upon actuation of the one-click control option at least part of an unsent message from a message composition environment associated with the first communications medium to a message composition environment associated with the second communications medium when the first communications medium becomes unavailable; and transferring automatically upon actuation of the one-click control option at least part of an unsent message from a message composition environment associated with the second communications medium to a message composition environment associated with the first communications medium when the second communications medium becomes unavailable,” as presently recited in independent claim 1.

Day was cited for its alleged teaching of a “transferring at least a part of the unsent message from the first communication medium to the second communication medium when the medium becomes unavailable” (Office Action, page 5). However, Day fails to remedy the deficiencies in Berger noted above with respect to claim 1. For example, Day fails to disclose or suggest “displaying a one-click control option for transitioning message delivery and message composition to the second communications medium when the potential recipient is present to the second communications medium; removing display of the one-click control option when the potential recipient becomes non-present to the second communication medium; transferring automatically upon actuation of the one-click control option at least part of an unsent message from a message composition

environment associated with the first communications medium to a message composition environment associated with the second communications medium when the first communications medium becomes unavailable; and transferring automatically upon actuation of the one-click control option at least part of an unsent message from a message composition environment associated with the second communications medium to a message composition environment associated with the first communications medium when the second communications medium becomes unavailable,” as presently recited in claim 1.

Thus, Berger and Day, whether taken alone or in combination (assuming for the sake of argument that they can be combined), fail to disclose or suggest the features of claim 1. Accordingly, independent claim 1 is allowable.

**Dependent claims 3, 4, and 6-8** depend from independent claim 1 and are allowable by virtue of this dependency, as well as for additional features that they recite.

**Independent claims 11, 17, 28, 35, and 38** are also allowable for reasons similar to those given above with regards to independent claim 1, in particular the references fail to disclose or suggest the elements presented with regards to displaying the one-click option when the user is present to the particular medium, removing the one-click option when the user becomes unavailable to the particular

medium, and automatically transferring the unsent message upon actuation of the one-click option.

**Dependent claims 12, 13, 15, and 16** depend from independent claim 11 and are allowable by virtue of this dependency, as well as for additional features that they recite.

**Dependent claims 18-19, 21-25 and 27** depend from independent claim 17 and are allowable by virtue of this dependency, as well as for additional features that they recite.

**Dependent claims 29-34** depend from independent claim 28 and are allowable by virtue of this dependency, as well as for additional features that they recite.

**Dependent claims 36 and 37** depend from independent claim 35 and are allowable by virtue of this dependency, as well as for additional features that they recite.

**Dependent claim 39** depends from independent claim 38 and is allowable by virtue of this dependency, as well as for additional features that it recites.

Claims 10 and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2004/0268265 (Berger) in view of U.S. Publication No. 2005/0027839 (Day) further in view of U.S. Publication No. 2008/0027909 (Gang). Applicant respectfully traverses the rejection. Nevertheless, without conceding the propriety of the rejection and in the interest

of expediting allowance of the application, claims 1 and 17, from which claims 10 and 26 depend, are amended and are believed to be allowable.

As discussed above, Berger and Day both lack features of independent claims 1 and 17.

Gang was cited for its alleged teaching of a “messaging system which discloses sending a message to a plurality of users based on their presence to a chat room, IM, or email client.” (Office Action, page 6.) However, Gang fails to remedy the deficiencies in Berger noted above with respect to claims 1 and 17.

Thus, Berger and Day, whether taken alone or in combination (assuming for the sake of argument that they can be combined), fail to disclose or suggest the features of claim 1 or 17. Accordingly, independent claims 1 and 17 are allowable.

**Dependent claims 10 and 26** depend from independent claims 1 and 17 respectively, and are allowable by virtue of this dependency, as well as for additional features that they recite. Applicant also respectfully requests individual consideration of each dependent claim.

### CONCLUSION

For at least the foregoing reasons, claims 1, 3, 4, 6-8, 10-13, 15-19, and 21-39 are in condition for allowance. Applicant respectfully requests reconsideration and withdrawal of the rejections and an early notice of allowance.

If any issue remains unresolved that would prevent allowance of this case,  
**Applicant requests that the Examiner contact the undersigned attorney to resolve the issue.**

Respectfully submitted,

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